

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff

vs

CRIMINAL 05-0157CCC

1) BRAULIO AGOSTO-VEGA
(Counts One, Two, Three and Four)
2) JUAN AGOSTO-VEGA
(Counts One, Two, Three and Four)
3) BRAULIO AGOSTO MOTORS, INC.
(Counts Two and Three)

Defendants

O R D E R

Having considered the Joint Motion Requesting Order for Enlargement of Time to File Motions as Per the Court's Scheduling Order filed by defendants Braulio Agosto-Vega, Juan Agosto-Vega and Braulio Motors, Inc. (**docket entry 23**) and the statement made by the government in its opposition to a motion for bill of particulars (**docket entry 27**), in the sense that it had provided full discovery at the time (July 11, 2005) except for sampling documents that had yet to be received from the Environmental Quality Board (EQB), the same is DENIED.

The Joint Motion Requesting a Bill of Particulars filed by defendants Braulio Agosto-Vega, Juan Agosto-Vega and Braulio Agosto Motors, Inc. (**docket entry 25**), having considered the United States' Response in Opposition (**docket entry 27**), is DENIED.

Having considered the Joint Motion Requesting Court Order on Discovery Issues filed by defendants Braulio Agosto-Vega, Juan Agosto-Vega and Braulio Agosto Motors, Inc. (docket entry 28) and the United States' opposition (**docket entry 34**), the Court RULES as follows:

- charts, maps and aerial photos - the government will address the production of charts and maps by no later than OCTOBER 28, 2005 since in its opposition it only mentions having produced the photos.

- names of persons that the government will not call as witnesses - DENIED.

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- arrest reports - DENIED, given the government's response that the only arrest reports or logs are the arrest 302's prepared by the F.B.I. already produced.

- promises, arrangements, etc. made to government witnesses - DENIED given the government's response.

- expert witnesses - DENIED as to the curriculum vitae of experts and as to the files of Ms. Brenda Rodríguez which the government represents have been produced. However, the government does not state that it has provided defendants with a written summary of its experts' testimony as required by Fed.R.Crim.P. 16(a)(1)(G). The United States is allowed until OCTOBER 28, 2005 to do so.

- EQB sampling - DENIED.

- dye tests, etc. - the government did not address the following items in its response: (1) results of any dye test for water flow tracing through the navigable waters of the U.S., (2) soil studies conducted by any state or federal administrative or law enforcement agencies to ascertain the contents of the alleged raw waste and (3) tests or reports of reverse tracing of the raw sewage to its source conducted by any state or federal administrative or law enforcement agencies. It shall address these items by OCTOBER 28, 2005.

- reports or fields examinations or scientific tests or experiments made in connection with this case - the government did not address these items and shall do so by OCTOBER 28, 2005.

- documents prepared by PRASA relating to the intake of the Río Grande drinking water plant - DENIED.

- reports and/or studies by the U.S. Geological survey or any federal and/or administrative agency addressing the water quality standard of the Río Espíritu Santo - DENIED.

- specific dates when the acts of the indictment were allegedly performed - DENIED.

- sampling procedure utilized - DENIED, given the government's response that the protocol used by the EQB has been made available.

- identity of government informant - DENIED.

The Motion to Compel Information Re: Disclosure of Confidential Informant filed by defendant Juan Agosto Vega (**docket entry 42**), having considered the government's Opposition (**docket entry 45**), is DENIED.

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Having considered the Joint Motion to Dismiss Count One of the Indictment Due to Vagueness and Failure to State a Crime filed by defendants Braulio Agosto-Vega and Juan Agosto-Vega (**docket entry 43**) and the United States' Response in Opposition (docket entry 47), the same is DENIED.

The Motion for Leave of Court to File Color Appendix and Index Pursuant to EM/ECF Procedure IV(B)(5) filed by defendants Braulio Agosto-Vega and Juan Agosto-Vega (**docket entry 49**) is GRANTED.

SO ORDERED.

At San Juan, Puerto Rico, on October 18, 2005.

S/CARMEN CONSUELO CEREZO
United States District Judge